

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Rule 7 of the Court's local rules, defendants, the United States Food and Drug Administration, et al., respectfully request that the Court grant an extension of time, to and including May 1, 2017, for defendants to submit their response to plaintiff's motion to compel discovery. Our response is currently due tomorrow, March 8, 2017. This is our first request for an extension of time for this purpose. Counsel for plaintiff, Texas Department of Criminal Justice (Texas), has authorized us to state that Texas consents to our request.

Texas's motion seeks to compel certain discovery concerning the timing of the Food and Drug Administration's (FDA's) decision-making. *See generally* Pl. Mot. Compel, Feb. 15, 2017, ECF No. 18. Texas asserts that such discovery is necessary for it to litigate the central question in this case—namely, whether the FDA has unreasonably delayed issuing a final decision on the admissibility of drugs that Texas is seeking to import. *See generally id.* at 1. However, as explained in the joint motion to stay that we filed last week, FDA has determined that it will issue a final decision on or before April 20, 2017, at which point Texas will receive all the relief

it is seeking through this action. Once that happens, Texas's unreasonable-delay challenge will be rendered moot. *See* Joint Mot. Stay, Feb. 27, 2017, ECF No. 20.

The timing of FDA's forthcoming decision makes litigating Texas's motion to compel unnecessary. Indeed, to avoid any further expenditure of the Court's or the parties' resources in the meantime, we asked the Court to stay the proceedings in this case until April 24, 2017. The Court, however, has not yet ruled on our stay motion. Because we do not wish to compromise our position on plaintiff's motion to compel in the meantime, we respectfully request that the Court grant us until May 1, 2017 to file any response.

For these reasons, we respectfully request that the Court grant the requested extension, and permit us to file any opposition to Texas's motion to compel on or before May 1, 2017.

Respectfully submitted,

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s/ Alexander V. Sverdlov
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March 7, 2017

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on this 7th day of March, 2017, a copy of the foregoing “DEFENDANTS’ UNOPPOSED MOTION FOR AN EXTENSION OF TIME” was filed electronically. This filing was served electronically to all parties by operation of the Court’s electronic filing system.

s/ Alexander V. Sverdlov

Upon consideration of defendants' consent motion for an extension of time to respond to plaintiff's motion to compel, and upon due deliberation, it is hereby

ORDERED that defendants shall file their response by May 1, 2017.

DATED: _____

HON. GEORGE C. HANKS, JR.
United States District Judge